

UNITED STATES DISTRICT COURT  
EASTERN DISTRICT OF TEXAS  
SHERMAN DIVISION

UNITED STATES OF AMERICA		DOCKET NO. 4:16CR37
		MAY 30, 2017
VS.		10:42 A.M.
JOHN PAUL CHILDERS		BEAUMONT, TEXAS

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VOLUME 1 OF 1, PAGES 1 THROUGH 25

REPORTER'S TRANSCRIPT OF SENTENCING HEARING

BEFORE THE HONORABLE MARCIA A. CRONE  
UNITED STATES DISTRICT JUDGE

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APPEARANCES:

FOR THE GOVERNMENT:   MARISA MILLER  
                                  U.S. ATTORNEY'S OFFICE  
                                  101 EAST PARK BOULEVARD  
                                  PLANO, TEXAS 75074

FOR THE DEFENDANT:   JEFFERY CHARLES KING  
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PROCEEDINGS REPORTED USING COMPUTERIZED STENOTYPE;  
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1 [OPEN COURT, DEFENDANT PRESENT VIA  
2 VIDEOCONFERENCE.]

3 THE COURT: This is Case No. 4:16CR37,  
4 Defendant 1, *United States of America versus Joel Paul*  
5 *Childers*.

10:42AM

6 Are you ready to proceed?

7 MS. MILLER: Marisa Miller for the government.  
8 Yes, your Honor.

9 MR. KING: Jeff King for Mr. Childers. Yes,  
10 your Honor.

10:42AM

11 THE COURT: And has the defendant signed the  
12 video waiver form?

13 MR. KING: Yes, judge.

14 THE COURT: Have counsel and the defendant  
15 read and discussed the presentence report, including any  
16 revisions?

10:43AM

17 MR. KING: Yes, your Honor.

18 THE COURT: And has counsel fully explained  
19 the report to the defendant?

10:43AM

20 MR. KING: Yes, your Honor.

21 THE COURT: Mr. Childers, do you fully  
22 understand the presentence report?

23 THE DEFENDANT: Yes, ma'am.

10:43AM

24 THE COURT: Does counsel or defendant wish to  
25 make any comments, additions, or corrections to the

1 report?

2 MR. KING: Your Honor, outside of the  
3 objections that were filed, there were a couple of  
4 corrections that I have spoken to probation about that we  
5 believe have already been changed in the system. The  
6 first is Mr. Childers' date of birth reads incorrectly.  
7 His correct date of birth is September 16th, 1966.

8 THE COURT: Okay. Has that been changed,  
9 probation?

10 PROBATION OFFICER: Yes, your Honor.

11 THE COURT: All right.

12 MR. KING: And then the other are a couple  
13 medical conditions that need to be added to paragraph 89;  
14 and that includes sleep apnea and Charcot-Marie-Tooth  
15 disease, CMT.

16 THE COURT: What is that?

17 MR. KING: If you would give me just a moment,  
18 your Honor.

19 (Discussion off the record between Mr. King  
20 and the defendant.)

21 MR. KING: Your Honor, it's a disease that  
22 affects the peripheral nerves which lie outside the brain  
23 and spinal cord and supply the muscles and sensory  
24 organs, resulting in weakness of the foot and lower leg  
25 muscles, hands, and arms.

1 THE COURT: All right. Has probation included  
2 that in the report?

3 PROBATION OFFICER: No, your Honor. We  
4 didn't...

10:45AM

5 THE COURT: I think that was "no"?

6 MS. MILLER: Yes, your Honor. That was a  
7 "no."

10:45AM

8 PROBATION OFFICER: Yes, your Honor. We did  
9 not receive that information until the final presentence  
10 report had already gone out.

11 THE COURT: Okay. Well, do you plan on, like,  
12 revising it to include that or not?

10:45AM

13 PROBATION OFFICER: We will include medical  
14 information in a separate document to the BOP whenever we  
15 submit his designation paperwork.

16 THE COURT: Very well. Okay.

17 Otherwise, Mr. Childers, does the report  
18 adequately cover your background?

19 THE DEFENDANT: Yes, ma'am.

10:45AM

20 THE COURT: And has the government read the  
21 report; and does it wish to make any comments, additions,  
22 or corrections?

10:45AM

23 MS. MILLER: We have read the report, your  
24 Honor, and have no comments, additions, or corrections  
25 to it.

1 THE COURT: All right. Now, there were some  
2 objections filed. One of them has to do -- look at  
3 No. 1, improper relevant conduct. Okay. Paragraphs 9  
4 and 10.

10:46AM

5 All right. So, what's the basis for your  
6 objection?

10:46AM

7 MR. KING: Your Honor, defense does not  
8 believe this is relevant conduct given the charges to  
9 which Mr. Childers pled. Paragraphs 9 and 10 cover --  
10 and it's not even an offense because he was never  
11 arrested for it; but it's an event that happened over ten  
12 years ago, in 2004. Mr. Childers was approached by law  
13 enforcement about this, but he was never taken into  
14 custody. So, defense believes it should not be included  
15 in the PSR for those reasons.

10:47AM

16 THE COURT: All right. What's the  
17 government's response on that?

10:47AM

18 MS. MILLER: Your Honor, the government's  
19 response is that the court can essentially consider  
20 any -- can the court still hear me?

21 THE COURT: Yes. Can you hear me?

22 MS. MILLER: Okay. Yes. Thank you, your  
23 Honor.

24 THE COURT: Okay.

10:47AM

25 MS. MILLER: Essentially the court can

1 consider any information in determining the appropriate  
2 sentence; and I particularly cite to Section 1B1.4 of the  
3 sentencing guidelines that says the court can consider  
4 without limitation any information concerning the  
5 background, character, and conduct of the defendant  
6 unless prohibited by law.

10:47AM

7 In this case we're talking about a long  
8 pattern and history of exploitative behavior involving  
9 children. So, while the government agrees that there was  
10 no criminal conviction and there is no sentencing  
11 guideline enhancement because of this, the government  
12 does urge that this is information that the court should  
13 consider in determining the appropriate sentence for this  
14 defendant.

10:47AM

15 THE COURT: The objection is overruled. I  
16 think it's relevant background information. It certainly  
17 shows a predisposition to this kind of behavior that's  
18 charged in this case to which he pled guilty. So, that's  
19 overruled.

10:48AM

20 Okay. Then there's your next objection.

10:48AM

21 MR. KING: And, your Honor, before you get to  
22 it, the defense is withdrawing Objection No. 3.

23 THE COURT: Okay.

24 MR. KING: But Objection No. 2, judge, objects  
25 to the enhancement for distribution in that it does not

10:48AM

1 fall under the distribution enhancement under  
2 2G2.1(b)(3). This is a case where Mr. Childers pled to  
3 production and the paragraphs that actually contribute to  
4 this enhancement corroborate the production in that he  
5 provided financial consideration in exchange for the  
6 production of these videos, but he had absolutely nothing  
7 to do with the distribution of those. The only conduct  
8 that resulted from the financial payment was that he was  
9 able to view these things. It was not public knowledge.

10 It was not posted on any Internet site. There's no  
11 evidence that he distributed it to anyone else.

12 THE COURT: All right. Does the government  
13 have a response?

14 MS. MILLER: Yes, your Honor. The  
15 government's response is that that argument is  
16 nonsensical. It appears to be that the defendant paid to  
17 have images and videos depicting the custom-made  
18 exploitation of children produced for his benefit but  
19 that he did not seek their distribution. Well, it would  
20 be nonsensical for him to pay for children to be abused  
21 at his discretion but then not actually want to see those  
22 images.

23 I turn the court's attention to the commentary  
24 of this guideline section. It's Commentary Note 3 on  
25 page 221 of the guidelines manual that specifically notes

1 that the defendant knowingly engaged in distribution if  
2 he committed the distribution himself, which we're not  
3 alleging, but, B, he did aid, abet, counsel, command,  
4 induce, procure, or willfully cause that distribution or  
5 seek, conspire to distribute. And certainly in this case  
6 he did. He commanded and induced that the images and  
7 videos of these children's abuse be distributed to him.

8 MR. KING: Your Honor, my only response to  
9 that is that it -- to argue it's nonsensical is a bridge  
10 too far. The government clearly agrees *[sic]* with our  
11 objection, but the theory behind this is that there is  
12 really no difference between what is being alleged with  
13 the actual production and distribution. I think they're  
14 trying to wedge that same argument that he's already pled  
15 to the production and participation of that into the  
16 distribution argument. This was not distributed to any  
17 other person. It was not posted on any website. It was  
18 not available for public viewing.

19 THE COURT: But it was distributed to him.  
20 So, I don't see that that -- that should be sufficient.  
21 So, your objection is overruled.

22 MR. KING: And under that argument --  
23 understood, judge.

24 THE COURT: Okay. To the extent the court  
25 previously deferred acceptance of the plea agreement, it



1 is now accepted.

2 The court finds the information contained in  
3 the presentence report has sufficient indicia of  
4 reliability to support its probable accuracy. The court  
10:51AM 5 adopts the factual findings, undisputed facts, and  
6 guideline applications in the presentence report.

7 Based upon a preponderance of the evidence  
8 presented and the facts in the report, while viewing the  
9 Sentencing Guidelines as advisory, the court concludes  
10:51AM 10 that the total offense level is 43, the criminal history  
11 category is II, which provides for an advisory guideline  
12 range of life as to each count. Well, it -- I think  
13 that's right.

14 MS. MILLER: Well, your Honor, if the  
10:52AM 15 government can just interject. Because --

16 THE COURT: Statutory provision is 15 to 30  
17 years as to each. So, I don't --

18 MS. MILLER: That's correct, your Honor. So,  
19 the guideline range essentially becomes 30 years on each  
10:52AM 20 count.

21 THE COURT: That's what I thought. I didn't  
22 understand -- that's what's here but -- right. It should  
23 be -- okay. Because that's the statutory maximum. So,  
24 it would be 30 as to each count. All right. And that's  
10:52AM 25 also the recommended sentence on each count

1 consecutively.

2 Okay. Does defendant's counsel wish to make  
3 any remarks on behalf of the defendant?

4 MR. KING: Yes, your Honor. Thank you.

10:52AM

5 The defense is requesting that a term of  
6 imprisonment to Mr. Childers be awarded at 240 months per  
7 count and that run concurrently. Defense does not ask  
8 for this lightly, judge. As Mr. Childers will state in  
9 his allocution, this type of conduct represents the

10:53AM

10 darkest parts of human nature. I'm sure the government  
11 is going to comment on that as well. We don't dispute  
12 that. But the only thing that someone can do when

13 they're facing an offense like this is to work towards  
14 forgiveness and towards healing, is to do exactly what

10:53AM

15 Mr. Childers did on January 26th, 2017. In this very  
16 courtroom, he raised his right hand and he swore under  
17 oath to tell the truth; and he accepted responsibility  
18 for this misconduct. That's all that was available to

19 him. And he did so knowing full well that possibly he

10:53AM

20 would be facing 30 years consecutively. He did that. He  
21 pled guilty with the hope that he would breathe some free  
22 air at some point in his life, that he could finish his  
23 life outside of the jail. It's for those reasons, your  
24 Honor, that we ask that this sentence be run

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25 concurrently.

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1 He has done everything he can do. He's  
2 accepted responsibility. There's more to this case than  
3 just these atrocities. Mr. Childers has a stepdaughter  
4 named Sarah Wong; and in that letter she writes of  
5 someone who was there for her when she would run away  
6 from home; was there for her when she had problems  
7 communicating with her mother and the person that her  
8 mother was living with, her father; that she went to Joel  
9 Childers to seek help that he provided for her; that he  
10 would actually convince her to go back and try and make  
11 amends with this family. This is someone who still has  
12 good in him, and we'd ask the court to recognize that and  
13 to recognize that there's no deterrent in sentencing  
14 someone to consecutive 30-year prison terms. The only  
15 deterrent from that, your Honor, we would submit, is to  
16 deter defendants not to plead guilty to this type of  
17 offense because that, as the court is well aware, is a  
18 life sentence. Mr. Childers is 50 years old. Even if  
19 the court grants what the defense is requesting, this is  
20 likely a life sentence for Mr. Childers.

21 As paragraph 89 attests, his health is not  
22 good. The chances of Mr. Childers actually living to see  
23 his family again are slim. So, all we would ask is the  
24 court recognize that Mr. Childers accepted responsibility  
25 for something like this.

10:55AM

1 In addition, we would just add that -- as the  
2 government noted awhile back, they declared this case  
3 complex. This was going to be a trial that required  
4 international witnesses to be flown here to testify about  
5 these things, and on January 26th Mr. Childers relieved  
6 them of that burden. And for those reasons and under the  
7 factors of 3553(a) in the Sentencing Guidelines, the  
8 defense would ask that Mr. Childers be sentenced to  
9 concurrent terms of imprisonment. Thank you, judge.

10:56AM

10 THE COURT: All right. Does the defendant  
11 wish to make a statement?

10:56AM

12 THE DEFENDANT: Yes, your Honor. Thank you  
13 for allowing me the opportunity to speak. I would like  
14 to state briefly how sorry I am for my actions that have  
15 brought us all together. I let evil happen; and when  
16 evil happens, it is not so much that victory is scored  
17 for evil as a failure for good. I have failed.

10:56AM

18 At this point there's no excuse for my  
19 actions, only apologies, healing, and hope. My apology  
20 should be an important part at the start of this process  
21 for the victims. Foremost, I want to express how sorry I  
22 am to the young girls, my victims in this mess. Children  
23 have had their families torn apart and are too young to  
24 understand. For years they will struggle to comprehend  
25 what their mother, their father, their aunt, and their

10:57AM

1 grandmother were involved in with me. I fear they will  
2 fight to find love and self-worth in a replacement family  
3 because of what I did. I hope they find peace and love.  
4 They deserve better.

10:57AM

5 I was involved in a terrible set of actions.  
6 I regret it. At some point in the fall -- late summer,  
7 early fall of 2015, I told all those that I was involved  
8 with that I could no longer continue. I had made up my  
9 mind to stop. I had come to realize that what we did was  
10 wrong. I was scared. I did not know where it would end  
11 up at. It was serious. This was before I knew we were  
12 possibly already under investigation.

10:58AM

13 I also need to apologize to my family for the  
14 burdens that I have strapped them with. My mother whom I  
15 should be sheltering and providing comfort and support  
16 for in her later years, instead I have added to her  
17 struggles and pains with my sentence. These actions were  
18 my failing, not hers. I need to tell my sister that I'm  
19 sorry. I have taken away her big brother by my selfish  
20 actions, and I leave her with my responsibilities. I  
21 know she already has a load to carry of her own, and I've  
22 only added to it.

10:58AM

10:59AM

23 My daughters, Sarah and Kimberly, denied  
24 access, guidance, love, and assistance from their dad by  
25 my actions. Abandoned but not unloved. Sarah who wants

10:59AM

1 her dad to give her away as she renews her vows; Kimberly  
2 who depends on me for many things, from rides to the  
3 doctor's office to help getting necessary medical  
4 equipment. I am sorry I won't be there for you because I  
5 failed you.

11:00AM

6 My friends, unable to understand what has  
7 happened with me. The core group, as we discussed,  
8 starting a business together. I am sorry I have failed  
9 you. As a senior engineer and technical team lead  
10 dealing with all things related to Microsoft SQL Server  
11 for a prominent travel company with 20 years of  
12 experience, college degrees, and too many industry  
13 certifications to count, I have failed my employer and my  
14 colleagues with these actions. I want them to know I am  
15 sorry.

11:00AM

11:00AM

16 I am painfully aware of the sacrifices many  
17 others have made for me, most of them undeserved.  
18 They've made sacrifices or have been forced to make them  
19 because of my actions. I thank you; and I'm sorry I have  
20 failed you, too.

11:01AM

21 I have done a terrible, horrible thing that is  
22 not justifiable. I am ashamed, saddened, and disgusted  
23 by those actions; and I regret it every day. Every  
24 single day. And I will for the rest of my life. I have  
25 failed you, but I am not the demon that people think I

11:01AM

1 am. None of us are who we were on our darkest and worst  
2 days. I can make no amends. I cannot help my mother. I  
3 cannot be a dad to my daughters. I cannot be a big  
4 brother, a friend, or a workmate spending the rest of my  
5 life in prison. I deserve some punishment, a reasonable  
6 one that I would hope considers my potential for good and  
7 not just my failings.

11:02AM

8 MR. KING: That concludes his statement, your  
9 Honor.

11:02AM

10 THE COURT: All right. Thank you.

11 Does the attorney for the government wish to  
12 make any remarks?

11:02AM

13 MS. MILLER: Yes, your Honor. The government  
14 concurs with probation's request that the court impose a  
15 term of imprisonment of 30 years on each of the counts to  
16 be served consecutively. While there is certainly a need  
17 for deterrence in this case, the government would like to  
18 make clear that a sentence of 60 years is required not  
19 only because of the conduct in this case but also

11:02AM

20 because, let there be no mistake about it, Joel Childers  
21 is a significant danger to the community and specifically  
22 to any children.

11:03AM

23 I find it concerning that in his statement to  
24 the court he says quite passively "I let evil happen. I  
25 was involved in a terrible set of actions" and statements

1 along the lines that he should be considered in light of  
2 his best day, not in light of his worst.

3 I note Count 2 of the indictment, to which he  
4 pleaded guilty, the conduct alleged went on for a period  
5 of years -- September, 2013, to February 15th, 2016. I  
6 note that that 2006 [sic] date is also important because  
7 contrary to what Mr. Childers told the court about having  
8 concerns about his conduct and deciding on his own that  
9 he would stop, he did in fact not stop. And I only raise

10 this because he himself has raised this. In the  
11 communications with the women, he makes it clear. Once  
12 the woman who was the mother of the child alleged in  
13 Count 1 of the indictment was arrested by the Romanian  
14 authorities, he and the other women were concerned that  
15 they would be found next and therefore decided to try to  
16 back off their communications to avoid law enforcement.

17 And that's another point worth noting in this  
18 case. While the victim in Count 1 was found through  
19 another investigation and while the Romanian authorities  
20 had found the Western Union receipts which detailed  
21 thousands of dollars that Mr. Childers had paid these  
22 mothers and fathers to abuse their children, at his own  
23 customized request, they -- the identifies of those other  
24 individuals had not been determined. It was not until  
25 FBI agents were able to piece together forensically from



1 Mr. Childers' computer, the FBI agents here in the  
2 Eastern District were able to identify those other  
3 children alleged in Counts 2 and 3 of the indictment.

11:04AM

4 It's also worth noting that Mr. Childers was  
5 not cooperative with law enforcement, not on the date  
6 that the search warrant was executed and not thereafter.  
7 And were that the only conduct, that conduct alone would  
8 compel a sentence of 60 years, 30 on each count. But  
9 that's not all.

11:05AM

10 As the pretrial services report indicates,  
11 there were communications and chats with other  
12 individuals where he discussed wanting to see children  
13 tortured; where he discussed wanting to see people  
14 pained, bleeding, hooks through nipples, kenneling

11:05AM

15 children, degrading, abusive acts, as well as the  
16 exchange of significant quantities of child pornography.  
17 And in the government's sentencing statement, the  
18 government submitted a chart detailing the breakdown, a  
19 number of devices containing a number of images and  
20 videos well in excess of 600.

11:05AM

21 So, your Honor, it is the government's request  
22 that the defendant be sentenced to a term of imprisonment  
23 of 30 years on each count to be served consecutively. I  
24 also note, as was in my sentencing statement in this  
25 case, the government is asking that the \$5,000 Justice

11:05AM

1 For Victims of Trafficking Act assessment be imposed and  
2 would ask that if the defendant does claim to lack the  
3 financial wherewithal to pay that assessment, that prior  
4 to making a finding of indigency, the court does inquire  
5 about the significant cash and other valuable resources  
6 that the government knew to once be in Mr. Childers'  
7 possession. Thank you, your Honor.

11:06AM

8 MR. KING: Your Honor, if I could just respond  
9 briefly.

11:06AM

10 THE COURT: All right.

11 MR. KING: The government gives a compelling  
12 closing argument, but this -- Mr. Childers has already  
13 accepted responsibility for these things. He's already  
14 admitted to the court under oath that he did these

11:06AM

15 things. If this were -- if he were convicted after a  
16 jury trial, then it would make sense to give him the  
17 maximum under statutory law for these two counts; but  
18 that's not the case here. In this case Mr. Childers  
19 accepted responsibility, knowing full well potentially

11:06AM

20 that he could be serving those consecutive terms. It  
21 would make sense to not reward him but recognize that at  
22 a minimum he relieved the government of proving this case  
23 beyond a reasonable doubt, of calling those witnesses  
24 that the government refers to from Romania here to the

11:07AM

25 United States, that due to Mr. Childers' own recognizance

1 and own actions, those things did not have to happen.  
2 There are people that accept responsibility and own up to  
3 what they did; and there are people that don't, that run  
4 from it.

11:07AM

5 These are horrible atrocities that are not  
6 easily admitted to, and Mr. Childers did that. He has  
7 done everything he possibly can. For those reasons, the  
8 term of imprisonment the defense believes should be  
9 concurrent.

11:07AM

10 THE COURT: Counsel know of any reason why  
11 sentence should not be imposed at this time?

12 MR. KING: No, your Honor.

11:08AM

13 THE COURT: Pursuant to the Sentencing Reform  
14 Act of 1984 and having considered the factors noted in 18  
15 U.S.C., Section 3553(a), and after having consulted the  
16 advisory Sentencing Guidelines, it is the judgment of the  
17 court that the defendant, Joel Paul Childers, is hereby  
18 committed to the custody of the Bureau of Prisons to be  
19 imprisoned for a total term of 500 months. The term  
20 consists of 360 months on Count 1 and 360 months on  
21 Count 2 of the indictment, 220 of which is to be served  
22 concurrently -- that's of Count 2 -- and 140 to be served  
23 consecutively, which comes up with a total of 500.

11:08AM

24 Probation can check my math on that.

11:08AM

25 The court recommends to the Bureau of Prisons

1 that the defendant receive appropriate sex offender  
2 treatment while imprisoned.

3 While incarcerated, it is recommended that the  
4 defendant participate in the Inmate Financial  
11:08AM 5 Responsibility Program at a rate determined by Bureau of  
6 Prisons staff in accordance with the requirements of the  
7 Inmate Financial Responsibility Program.

8 It is further ordered that the defendant is to  
9 pay restitution totaling \$25,000 to the victims and in  
11:08AM 10 the amounts listed in the "Restitution" section of the  
11 presentence report, which is due and payable immediately.

12 The court finds the defendant does not have  
13 the ability to pay interest. The court will waive the  
14 interest requirement in this case.

11:09AM 15 The court finds this defendant does not have  
16 the ability to pay a fine. The court will waive the fine  
17 in this case.

18 It is ordered the defendant shall pay the  
19 United States a special assessment of \$200 which is due  
11:09AM 20 and payable immediately.

21 It is further ordered the defendant shall pay  
22 an assessment of \$5,000 on Count 1 and \$5,000 on Count 2  
23 pursuant to the Justice For Victims of Trafficking Act of  
24 2015 and 18 U.S.C., Section 3014.

11:09AM 25 Upon release from imprisonment, the defendant

1 shall be on supervised release for a term of 10 years.  
2 This term consists of 10 years on Count 1 and 10 years on  
3 Count 2, all such terms to run concurrently. Within 72  
4 hours of release from the custody of the Bureau of  
5 Prisons, the defendant shall report in person to the  
6 probation office in the district to which the defendant  
7 is released.

11:09AM

8 The defendant shall not commit another  
9 federal, state, or local crime and shall comply with the  
10 standard conditions that have been adopted by this court.  
11 In addition, the defendant must comply with the mandatory  
12 and special conditions and instructions that have been  
13 set forth in the defendant's presentence report.

11:09AM

14 The court finds this to be a reasonable  
15 sentence in view of the nature and circumstances of the  
16 offenses entailing the defendant's production of child  
17 pornography; his conspiring with the parents of 2  
18 prepubescent minor females under the age of 12 to engage  
19 in sexually explicit conduct with the minors, including  
20 sex acts involving oral contact with and penetration of  
21 the vagina and anus as well as masturbation for the  
22 purpose of creating visual depictions of such conduct;  
23 his sending payments to the parents of the children in  
24 Romania requesting that they create shows in which they  
25 sexually abuse the minors and transmit the live and

11:10AM

11:10AM

11:10AM

1 recorded videos via the Internet to his residence; his  
2 possessing 71 videos containing child pornography,  
3 including depictions of infants and toddlers on his  
4 computer; his admission to agents that he downloaded and  
5 viewed child pornography for approximately 10 years and  
6 that he had chats with others on the Internet in which he  
7 discussed performing sex acts on children; his prior  
8 convictions for theft, driving with an invalid license,  
9 and driving while intoxicated (2); and his apparent

11:11AM

10 alcohol abuse problem. It will serve as just punishment,  
11 promote respect for the law, and deter future violations  
12 of the law. Although the court finds the guideline  
13 calculations announced at the sentencing hearing to be  
14 correct, to the extent they were incorrectly calculated,  
15 the court would have imposed the same sentence without  
16 regard to the applicable guideline range in light of the  
17 factors set forth in 18 U.S.C., Section 3553(a).

11:11AM

18 You have a right to appeal your conviction if  
19 you believe that your guilty plea was somehow unlawful or  
20 involuntary or if there was some other fundamental defect  
21 in the proceedings that was not waived by your guilty  
22 plea. You have a statutory right to appeal your sentence  
23 under certain circumstances, particularly if you think  
24 the sentence is contrary to law. A defendant, however,  
25 may waive those rights as part of a plea agreement; and

11:11AM

11:11AM

1 you've entered into a plea agreement which waives certain  
2 rights to appeal your conviction and sentence.

3 With the exception of the reservation of the  
4 right to appeal on specified grounds set forth in the  
11:11AM 5 plea agreement, you've waived any appeal, including  
6 collateral appeal, of any error which may have occurred  
7 surrounding the substance, procedure, or form of the  
8 conviction and sentence in this case. Such waivers are  
9 generally enforceable; but if you believe the waiver is  
11:12AM 10 unenforceable, you can present that theory to the  
11 appellate court.

12 With few exceptions, any notice of appeal must  
13 be filed within 14 days of judgment being entered in your  
14 case. If you are unable to pay the cost of an appeal,  
11:12AM 15 you may apply for leave to appeal *in forma pauperis*. If  
16 you so request, the clerk of the court will prepare and  
17 file a notice of appeal on your behalf.

18 The presentence report is made part of the  
19 record and is placed under seal except counsel for the  
11:12AM 20 government and defense may have access to it for purposes  
21 of appeal.

22 Were there any other counts?

23 MS. MILLER: Yes, your Honor. The government  
24 would move to dismiss Counts 3 through 5 of the  
11:12AM 25 indictment.

1 THE COURT: That's granted.

2 The defendant is remanded to the custody of  
3 the United States Marshal and then to the custody of the  
4 United States Federal Bureau of Prisons to begin the  
5 service of sentence.

11:12AM

6 Is there a particular facility you wish to  
7 request?

8 MR. KING: Yes, your Honor. FMC Springfield,  
9 Missouri.

11:12AM

10 THE COURT: Okay. That's a medical facility.  
11 Is his physical medical needs such that he requires that  
12 type of care?

13 MR. KING: Yes, your Honor, we believe so.

14 THE COURT: Okay. I can recommend that, but  
15 it just -- it seems like he's got some problems, but I'm  
16 not sure they rise to the level of the acute kinds of  
17 problems that the medical centers generally would  
18 address.

11:13AM

19 MR. KING: I think it's the nature of his  
20 problems, that they are consistent and he requires  
21 medical care on a consistent basis. His term of I guess  
22 detention at Fannin County, he has not been able to  
23 receive a lot of medical attention in the manner in which  
24 he needs. So, that's why we -- in fact, we know that he  
25 was able to get better medical attention during the brief

11:13AM



1 stay he had at FMC Fort Worth. The only difference is  
2 Springfield is closer to where his mother lives, and she  
3 can visit him easily there.

4 THE COURT: Okay. Well, I can recommend that.  
5 That's no guarantee it will happen, but I'll do that.

6 Is there anything further?

7 MS. MILLER: No thank you, your Honor.

8 MR. KING: No, your Honor.

9 THE COURT: All right. Thank you, and you're  
10 excused.

11 (Proceedings adjourned, 11:14 a.m.)  
12  
13

14 COURT REPORTER'S CERTIFICATION

15 I HEREBY CERTIFY THAT ON THIS DATE, JULY 26,  
16 2017, THE FOREGOING IS A CORRECT TRANSCRIPT FROM THE  
17 RECORD OF PROCEEDINGS.  
18  
19

20 /s/  
21 TONYA JACKSON, RPR-CRR  
22  
23  
24  
25